IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8083 of 2003

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MEGHDHANUSHYA DUESTIFF

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

MS SUDHA R GANGWAR for Petitioner No. 1

MR SN SINHA for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 11/10/2004

ORAL JUDGEMENT

1, Rule. Mr. S.N. Sinha waives service for respondent Board.

2. The petitioner has challenged the order of the Appellate Committee of the respondent Board, in so far as

it is against the petitioner.

3. In spite of notice no reply has been filed. Heard the learned counsel for the respective parties.

4. In the impugned order of the Appellate Committee it is stated that the petitioner has not remained present in the hearing. As against that the case of the petitioner is that the petitioner had sent a fax message and also produced medical certificate to justify the reason for adjournment. Though the said message was received after the proceedings were completed on the very same day, the fact remains that the petitioner was not heard before passing the order. Therefore I am of the opinion the petitioner is required to be given a chance of hearing. Accordingly the impugned order is required to be quashed and set aside and the matter is required to be remanded to the Appellate Committee for fresh decision.

5. In the premises aforesaid, on the facts and circumstances of the case, the impugned order passed by the Appellate Committee at Annexure-B to the petition is quashed and set aside. The matter is remanded to the Appellate Committee for deciding the appeal of the petitioner afresh after hearing the petitioner.

6. It is clarified that the Appellate Committee shall hear and decide the matter without being influenced by the earlier order which is quashed in the present petition and also the present order passed in the present in the present petition.

7. However, the petitioner shall pay a sum of Rs.1500/(Rupees fifteen hundred only) to the respondent Board by way of costs within a period of three weeks from today and the appeal will be heard only after the payment of the aforesaid amount.

8. Rule is made absolute to the aforesaid extent.

[K.S. JHAVERI, J.]
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